

Susheel Kirpalani (Admitted Pro Hac Vice)
QUINN EMANUEL URQUHART & SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010
Telephone: (212) 849-7000
Facsimile: (212) 849-7100
Email: susheelkirpalani@quinnemanuel.com

K. John Shaffer (Cal. Bar No. 153729)
Matthew R. Scheck (Cal. Bar No. 273152)
QUINN EMANUEL URQUHART & SULLIVAN, LLP
865 South Figueroa Street, 10th Floor
Los Angeles, CA 90017
Telephone: (213) 443-3000
Facsimile: (213) 443-3100
Email: johnshaffer@quinnemanuel.com
matthewscheck@quinnemanuel.com

Stephen Finestone (Cal. Bar. No. 125675)
Jennifer C. Hayes (Cal. Bar No. 197252)
FINESTONE HAYES LLP
456 Montgomery Street, 20th Floor
San Francisco, California 94104
Telephone: (415) 616-0466
Facsimile: (415) 398-2820
Email: sfinestone@fhllawllp.com
jhayes@fhllawllp.com

Attorneys for the ResCap Liquidating Trust

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re:)	Case No. 19-51455 (MEH)
HOME LOAN CENTER, INC.,)	Chapter 11
Debtor.)	STIPULATED PROTECTIVE ORDER
)	
)	
)	
)	
)	
)	
)	

Case No. 19-51455 (MEH)

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

This Stipulated Protective Order (“Order”) governs the production, review, disclosure, and handling of any Disclosure or Discovery Material (as defined herein) produced by any person or entity in connection with the above-captioned bankruptcy case (the “Bankruptcy Case”).

Disclosure and discovery activity in the Bankruptcy Case may involve production of confidential, proprietary, or private information for which special protection from public disclosure may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter this Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles.

2. DEFINITIONS

2.1 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored, or maintained) or tangible things that qualify for protection under Federal Rule of Bankruptcy Procedure 7026 and Federal Rule of Civil Procedure 26(c).

2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well as their support staff).

2.4 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

2.5 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to the

1 Bankruptcy Case who has been retained by a Party or its counsel to serve as an expert witness.

2 2.7 House Counsel: attorneys who are employees of a party to this Bankruptcy Case.
3 House Counsel does not include Outside Counsel of Record or any other outside counsel.

4 2.8 Non-Party: any natural person, partnership, corporation, association, or other legal
5 entity not named as a Party to this Bankruptcy Case.

6 2.9 Outside Counsel of Record: attorneys who are not employees of a party to this
7 Bankruptcy Case but who are retained to represent or advise a party to this Bankruptcy Case and have
8 appeared in this Bankruptcy Case on behalf of that party or are affiliated with a law firm which has
9 appeared on behalf of that party.

10 2.10 Party: any party to this Bankruptcy Case, including all of its officers, directors,
11 employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

12 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material
13 in this Bankruptcy Case.

14 2.12 Professional Vendors: persons or entities that provide litigation support services (e.g.,
15 photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing,
16 or retrieving data in any form or medium) and their employees and subcontractors.

17 2.13 Protected Material: any Disclosure or Discovery Material that is designated as
18 “CONFIDENTIAL.”

19 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a
20 Producing Party.

21 3. SCOPE

22 The protections conferred by this Order cover not only Protected Material (as defined above),
23 but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts,
24 summaries, or compilations of Protected Material; and (3) any testimony, conversations, or
25 presentations by Parties or their Counsel that might reveal Protected Material. However, the
26 protections conferred by this Order do not cover the following information: (a) any information that

1 is in the public domain at the time of disclosure to a Receiving Party or becomes part of the public
2 domain after its disclosure to a Receiving Party as a result of publication not involving a violation of
3 this Order, including becoming part of the public record through trial, a hearing, a court filing, or
4 otherwise; and (b) any information known to the Receiving Party prior to the disclosure or obtained
5 by the Receiving Party after the disclosure from a source who obtained the information lawfully and
6 under no obligation of confidentiality to the Designating Party. Any use of Protected Material at trial
7 or a hearing shall be governed by a separate agreement or order.

8 4. DURATION

9 Even after final disposition of this Bankruptcy Case, the confidentiality obligations imposed
10 by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court
11 order otherwise directs. “Final Disposition” shall be deemed to be the closing or dismissal of the
12 Bankruptcy Case, and of all adversary proceedings, contested matters, and appeals relating thereto,
13 and the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of the
14 foregoing, including the time limits for filing any motions or applications for extension of time
15 pursuant to applicable law.

16 5. DESIGNATING PROTECTED MATERIAL

17 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or
18 Non-Party that designates information or items for protection under this Order must take care to limit
19 any such designation to specific material that qualifies under the appropriate standards. The
20 Designating Party must designate for protection only those parts of material, documents, items, or oral
21 or written communications that qualify – so that other portions of the material, documents, items, or
22 communications for which protection is not warranted are not swept unjustifiably within the ambit of
23 this Order.

24 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown
25 to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily
26

1 encumber or retard the case development process or to impose unnecessary expenses and burdens on
2 other parties) expose the Designating Party to sanctions.

3 If it comes to a Designating Party's attention that information or items that it designated for
4 protection do not qualify for protection, that Designating Party must promptly notify all other Parties
5 that it is withdrawing the mistaken designation.

6 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see,
7 e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or
8 Discovery Material that qualifies for protection under this Order must be clearly so designated before
9 the material is disclosed or produced.

10 Designation in conformity with this Order requires:

11 (a) for information in documentary form (e.g., paper or electronic documents, but
12 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party
13 affix the legend "CONFIDENTIAL" to each page that contains protected material. If only a portion
14 or portions of the material on a page qualifies for protection, the Producing Party also must clearly
15 identify the protected portion(s) (e.g., by making appropriate markings in the margins).

16 A Party or Non-Party that makes original documents or materials available for inspection
17 need not designate them for protection until after the inspecting Party has indicated which material it
18 would like copied and produced. During the inspection and before the designation, all of the material
19 made available for inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has
20 identified the documents it wants copied and produced, the Producing Party must determine which
21 documents, or portions thereof, qualify for protection under this Order. Then, before producing the
22 specified documents, the Producing Party must affix the "CONFIDENTIAL" legend to each page that
23 contains Protected Material. If only a portion or portions of the material on a page qualifies for
24 protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making
25 appropriate markings in the margins).

26 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
27

Designating Party identify all protected testimony either (a) on the record, before the close of the deposition, hearing, or other proceeding or (b) by written notice identifying the page and line numbers of a rough or final transcript within three (3) days after the close of the deposition, hearing, or other proceeding.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information or item is stored the legend "CONFIDENTIAL." If only a portion or portions of the information or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay, a Party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process by providing written notice of each designation it is challenging and describing the basis for each challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must recite that the challenge to confidentiality is being made in accordance with this specific paragraph of this Order. The parties shall attempt to resolve each challenge in good faith and must begin the process by conferring directly (in voice to voice dialogue; other forms of communication are not sufficient)

within 7 days of the date of service of notice. In conferring, the Challenging Party must explain the basis for its belief that the confidentiality designation was not proper and must give the Designating Party an opportunity to review the designated material, to reconsider the circumstances, and, if no change in designation is offered, to explain the basis for the chosen designation. A Challenging Party may proceed to the next stage of the challenge process only if it has engaged in this meet and confer process first or establishes that the Designating Party is unwilling to participate in the meet and confer process in a timely manner.

6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court intervention, the Challenging Party shall submit a letter brief of no more than five (5) pages to the Court via email to Judge Hammond's Courtroom Deputy, Anna Rosales, at anna_rosales@canb.uscourts.gov, with a cc: to the Designating Party within 14 days of the first voice to voice conference contemplated in paragraph 6.2 or within 7 days of the parties agreeing that the meet and confer process will not resolve their dispute, whichever is earlier. Each such letter brief must be accompanied by a competent declaration affirming that the movant has complied with the meet and confer requirements imposed in the preceding paragraph. Failure by the Challenging Party to submit such a letter including the required declaration within 14 days (or 7 days, if applicable) shall automatically waive the Challenging Party's right to contest the confidentiality designation for each challenged designation. The Designating Party may submit a letter brief in accordance with Judge Hammond's published Practices and Procedures supporting its confidentiality designation on the briefing schedule set by the Court. The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Unless the Designating Party has waived the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the court rules on the challenge.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. Upon a Final Disposition (as defined in section 4),

1 a Receiving Party must comply with the provisions of section 13 below.

2 Protected Material must be stored and maintained by a Receiving Party at a location and in a
3 secure manner that ensures that access is limited to the persons authorized under this Order.

4 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by
5 the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
6 information or item designated "CONFIDENTIAL" only to:

7 (a) the Receiving Party's Outside Counsel of Record, as well as employees of said Outside
8 Counsel of Record to whom it is reasonably necessary to disclose the information;

9 (b) the officers, directors, and employees (including House Counsel) of the Receiving
10 Party to whom disclosure is reasonably necessary and who have signed the "Acknowledgment and
11 Agreement to Be Bound" (Exhibit A);

12 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
13 reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound"
14 (Exhibit A);

15 (d) the court and its personnel;

16 (e) court reporters and their staff, and Professional Vendors to whom disclosure is
17 reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound"
18 (Exhibit A);

19 (f) during their depositions, witnesses to whom disclosure is reasonably necessary and
20 who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise
21 agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or
22 exhibits to depositions that reveal Protected Material must be separately bound by the court reporter
23 and may not be disclosed to anyone except as permitted under this Order.

24 (g) the author or recipient of a document containing the information or a custodian or other
25 person who otherwise possessed or knew the information.

1 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
2 LITIGATION

3 If a Party is served with a subpoena or a court order issued in other litigation that compels
4 disclosure of any information or items designated in this Bankruptcy Case as “CONFIDENTIAL,”
5 that Party must:

6 (a) promptly notify in writing the Designating Party. Such notification shall include a
7 copy of the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order to issue in the
9 other litigation that some or all of the material covered by the subpoena or order is subject to this
10 Order. Such notification shall include a copy of this Order; and

11 (c) cooperate with respect to all reasonable procedures sought to be pursued by the
12 Designating Party whose Protected Material may be affected.

13 If the Designating Party timely seeks a protective order, the Party served with the subpoena or
14 court order shall not produce any information designated in this Bankruptcy Case as
15 “CONFIDENTIAL” before a determination by the court from which the subpoena or order issued,
16 unless the Party has obtained the Designating Party’s permission. The Designating Party shall bear
17 the burden and expense of seeking protection in that court of its confidential material – and nothing in
18 these provisions should be construed as authorizing or encouraging a Receiving Party in this
19 Bankruptcy Case to disobey a lawful directive from another court.

20 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
21 BANKRUPTCY CASE

22 (a) The terms of this Order are applicable to information produced by a Non-Party in this
23 Bankruptcy Case and designated as “CONFIDENTIAL.” Such information produced by Non-Parties
24 in connection with this Bankruptcy Case is protected by the remedies and relief provided by this Order.
25 Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional
26 protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of this Order, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party.

(c) If the Non-Party fails to object or seek a protective order from this court within 7 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party seeks Court intervention pursuant to section O of the Court's Policies and Procedures, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced

material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Bankruptcy Procedure 7026 and Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement into a supplemental stipulated protective order submitted to the Court.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the court in the future.

12.2 Right to Assert Other Objections. By stipulating to this Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Order.

12.3 Filing Protected Material. Notwithstanding anything in Civil Local Rule 79-5 to the contrary, a Party may lodge with the Court those portions of any pleading or other document that contains Protected Material, without filing a motion for authority to file under seal or obtaining an order authorizing the sealing of such pleading or other document. If the Designating Party is the Party that lodges such Protected Material, it shall contemporaneously file a declaration establishing that the Protected Material at issue is privileged, protectable as a trade secret, or otherwise entitled to protection under the law (the "Verifying Declaration"). If the Receiving Party is the Party that lodges such Protected Material, the Designating Party shall file a Verifying Declaration within four court days.

13. FINAL DISPOSITION

Within 60 days after the Final Disposition, as defined in section 4 above, each Receiving Party

1 must return all Protected Material to the Producing Party or destroy such material. As used in this
2 subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any
3 other format reproducing or capturing any of the Protected Material. Notwithstanding this provision,
4 Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and
5 hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports,
6 attorney work product, and consultant and expert work product, even if such materials contain
7 Protected Material. Any such archival copies that contain or constitute Protected Material remain
8 subject to this Order as set forth in Section 4 (DURATION).

9 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

10 Dated: August 22, 2019

11 By: Jennifer C. Hayes

Susheel Kirpalani (Admitted Pro Hac Vice)

12 QUINN EMANUEL URQUHART &
SULLIVAN, LLP

13 51 Madison Avenue, 22nd Floor

New York, New York 10010

14 Telephone: (212) 849-7000

Facsimile: (212) 849-7100

15 Email: susheelkirpalani@quinnemanuel.com

16 K. John Shaffer (Cal. Bar No. 153729)

17 Matthew R. Scheck (Cal. Bar. No. 273152)

18 QUINN EMANUEL URQUHART &
SULLIVAN, LLP

865 South Figueroa Street, 10th Floor

19 Los Angeles, CA 90017

Telephone: (213) 443-3000

20 Facsimile: (213) 443-3100

Email: johnshaffer@quinnemanuel.com

21 matthewscheck@quinnemanuel.com

22 Jennifer C. Hayes (Cal. Bar No. 197252)

23 FINESTONE HAYES LLP

456 Montgomery Street, 20th Floor

24 San Francisco, California 94104

Telephone: (415) 616-0466

25 Facsimile: (415) 398-2820

Email: jhayes@fhlawllp.com

26 *Attorneys for the ResCap Liquidating Trust*

1 Dated: August 22, 2019

2 By: Steven J. Kahn
3 Steven J. Kahn (CA Bar No. 76933)
4 Pachulski Stang Ziehl & Jones LLP
5 10100 Santa Monica Blvd., 13th Floor
6 Los Angeles, CA 90067
7 Telephone: 310.277.6910
8 Facsimile: 310.201.0760
9 Email: jpomerantz@pszjlaw.com
10 jrichards@pszjlaw.com
11 mpagay@pszjlaw.com

12 Henry C. Kevane (CA Bar No. 125757)
13 Pachulski Stang Ziehl & Jones LLP
14 150 California St., 15th Floor
15 San Francisco, CA 94111
16 Telephone: 415.263.7000
17 Facsimile: 415.263.7010
18 Email: hkevane@pszjlaw.com

19 *Proposed Attorneys for Home Loan Center, Inc.*

20 Dated: August 22, 2019

21 By: Ori Katz
22 Matthew C. Corcoran (Pro Hac Vice to be Filed)
23 Jones Day
24 325 John H. McDowell Blvd., Suite 600
25 Columbus, OH 43215
26 Telephone: 614.469.3939
27 Facsimile: 614.461.4198

28 Ori Katz (Cal. Bar No. 209561)
Sheppard, Mullin, Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, California 94111-4109
Telephone: (415) 434-9100
Facsimile: (415) 434-3947
Email: okatz@sheppardmullin.com

*Attorneys for LendingTree, Inc., LendingTree,
LLC, and Douglas Lebda*

PURSUANT TO STIPULATION, IT IS SO ORDERED.

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of _____ [print or type
4 full address], declare under penalty of perjury that I have read in its entirety and understand the
5 Stipulated Protective Order ("Order") and the order approving the same that was issued by the United
6 States Bankruptcy Court for the Northern District of California on [date] in the case of *In re Home*
7 *Loan Center, Inc.*, Case No. 19-51455. I agree to comply with and to be bound by all the terms of this
8 Order and I understand and acknowledge that failure to so comply could expose me to sanctions and
9 punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any
10 information or item that is subject to this Order to any person or entity except in strict compliance with
11 the provisions of this Order.

12 I further agree to submit to the jurisdiction of the United States Bankruptcy Court for the Northern
13 District of California for the purpose of enforcing the terms of this Order, even if such enforcement
14 proceedings occur after termination of this Bankruptcy Case.

15 I hereby appoint _____ [print or type full name] of
16 _____ [print or type full address and telephone number] as
17 my California agent for service of process in connection with this Bankruptcy Case or any proceedings
18 related to enforcement of this Order.

19
20 Date: _____

21 City and State where sworn and signed: _____

22
23 Printed name: _____

24
25 Signature: _____